

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to)
Modify Probation of:)

Robert Levin, M.D.)

File No. 16-1998-89415

Physician's and Surgeon's)
Certificate No. G 44587)

Respondent)
_____)

DECISION

The attached **Proposed Decision** is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 7, 2003

IT IS SO ORDERED June 6, 2003.

MEDICAL BOARD OF CALIFORNIA

By: 

Ronald Wender, M.D.,

Chair

Panel B

Division of Medical Quality

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Modify
Probation of:

ROBERT BENNETT LEVIN, M.D.

Certificate No. G44587

Respondent.

OAH Case No. N 2003030863

PROPOSED DECISION

This matter was heard before Ruth S. Astle, Administrative Law Judge of the Office of Administrative Hearings, State of California on April 15, 2003 in Oakland, California.

David M. Carr, Deputy Attorney General, represented the Department of Justice.

Respondent, Robert Bennett Levin, M.D., was present and represented himself.

Submission of the matter was deferred to May 7, 2003 for receipt of further evidence, which was received and considered. The matter was submitted on May 7, 2003.

FACTUAL FINDINGS

1. On February 25, 1999, Robert Bennett Levin, M.D. (respondent) entered into a Stipulated Settlement and Disciplinary Order with the Medical Board (Board), which was effective May 5, 1999. Respondent admitted that he was disciplined by the New Jersey State Board of Medical Examiners for sexual misconduct with a patient¹. Respondent was placed on probation for five (5) years on various terms and conditions including, but not limited to, Education Course, Ethics Course, Oral Clinical or Written Exam, Psychiatric Evaluation, Psychotherapy, Monitoring, Prohibited Contact (medical services to females or heterosexual couples), Prohibited Practice (traditional office setting), Obey All Laws, Quarterly Reports, Probation Surveillance Program Compliance, Interview with the Division and Costs.

¹ Respondent engaged in inappropriate comments and touching.

2. Respondent has met all the terms and conditions of his Board probation to date and has approximately one year left on his probation. Respondent requests an early termination of his probation or in the alternative, he requests that he be allowed to see female patients through video conferencing for the California Forensic Medical Group. He is also requesting termination of the requirement for a practice monitor.

3. Respondent presently provides psychiatric services for male patients at county jail facilities. This is done through video-conferencing using telemedicine technology. Respondent remotely connects with the patient who is in the company of a nurse and a custody officer. There is never direct contact between the respondent and the patient. Respondent's treating therapist recommends this as a step toward respondent's full rehabilitation. Respondent would conduct sessions with female patients through video conferencing under his therapist's close supervision. Respondent has been working with his therapist for 3 years now and she is comfortable with this procedure.

4. Respondent has also been employed at the Correctional Training Facility at Soledad, California. He has been working there with several colleagues who recommend allowing respondent to see female patients in the circumstances set forth in Finding 3.

5. Respondent's practice monitor also finds that respondent exhibits a mastery of clinical psychiatry, has good clinical judgment and good interpersonal skills. He supports early termination of probation and/or termination of the requirement of a practice monitor.

6. It is clear that respondent has made a great deal of progress toward rehabilitation. It would not be against the public interest to terminate the requirement that respondent have a practice monitor. The public interest would best be served by allowing respondent to see female patients under the close supervision of his therapist. Starting with the video conferencing for an appropriate period of time as determined by his therapist and then in person under her supervision. This is a valuable step for respondent to take before his probation is fully terminated.

LEGAL CONCLUSIONS

Respondent's request to terminate probation is denied. Respondent's petition to modify probation is granted as follows:

1. Respondent shall continue on probation under the terms and conditions set forth in the Stipulation and Order except as set forth below.

2. Respondent has demonstrated that he is sufficiently rehabilitated to terminate the condition of his probation that requires him to have a practice monitor.

3. Respondent has demonstrated that he is sufficiently rehabilitated to allow him to see female patients under the close supervision of his therapist, first through video

conferencing and then in person. The timing is to be determined by respondent and his therapist in consultation.

ORDER

The request to terminate probation is denied. However, the petition to modify probation is granted as set forth in Legal Conclusion 2 and 3, above.

DATED: May 13, 2003



RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings
State of California